

### **Remarks**

Favorable reconsideration of this application is requested. Claims 1-21 now are pending in the present application. Claim 21 has been withdrawn. Claims 11 and 19 are currently amended.

The Examiner has objected to the application for claiming the benefit of issued U.S. Pat. No. 6,339,130. Applicants respectfully submit that Applicants unintentionally claimed the benefit of this issued patent. Applicants intended to file this application as a continuation of copending application Serial No 09/934,639 filed August 22, 2001. Applicants are concurrently filing a two separate Petitions Pursuant to 37 C.F.R. § 1.78(a).

The first Petition Pursuant to 37 C.F.R. § 1.78(a) is related to the above-referenced application and claims the benefit of, among other things, the earlier filing date of Serial No 09/934,639 filed August 22, 2001. A copy of this petition is included herewith.

The second Petition Pursuant to 37 C.F.R. § 1.78(a) relates to related U.S. Application Serial No. 09/934,639 filed August 22, 2001, now abandoned. Applicants unintentionally failed to claim the benefit of now issued U.S. Pat. No 6,339,130. Accordingly, Applicants have corrected the priority of a parent case to the above-referenced case.

Applicants have amended the specification herein to claim the benefit of Serial No 09/934,639 filed August 22, 2001, while also noting the appropriate cross-references, which now includes U.S. Pat. No. 6,339,130. Applicants note that only those parent applications that were incorporated by reference at the time this patent application was

filed have been included with the benefit claim. Thus, the incorporated-by-reference statement in the benefit claim adds no new matter and is appropriate. See original page 1 of the specification, lines 9-14 which incorporate both U.S. application Serial No. 08/477,098 filed June 7, 1995 (now issued as U.S. Pat. No. 5,578,662), as well as U.S. Serial No. 08/278,898 filed July 22, 1994 by reference. Applicants request consideration of the instant application in light of Applicants' claim to the benefit of an earlier filing date.

The Examiner has noted that lined out references on the 1449 form were either not provided or not provided with an English translation. Copies of the following references are included herewith for consideration:

- 501844 1/30/1992 (EP)
- 1332505 5/10/2002 (EP)

Applicants note that EP 501844 relates to a protection circuit breaker having a thermo-magnetic sub-assembly, while EP 1 332 505 relates to an electrical switch, especially a piezo switch, with optical and/or mechanical feedback of the switching operation. Accordingly these references are not related prior art.

The Examiner has objected to claims 11 and 19 under 35 U.S.C. § 112 because portions of various formulas were unclear. These claims have been amended above, and it is submitted that various chemical formulas have been enlarged for clarity. Reconsideration is requested.

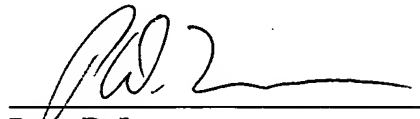
The Examiner has rejected the claims pursuant to 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 6,339,130 to Bennett et al. (hereinafter "Bennett"). Applicants respectfully submit that Applicants have perfected priority by filing two concurrent grantable Petitions Under 37 C.F.R. 1.78(a), and amended the specification of

the above-referenced application to contain a specific reference to a copending application at the time of filing. Accordingly, Bennett is not prior art to the instant application and no claim is anticipated. Copies of the two concurrently filed Petitions Pursuant to 37 C.F.R. § 1.78 (a) are enclosed herewith for the Examiner's reference.

The Examiner has rejected claims 1-20 under the judicially created doctrine of obviousness-type double patenting in light of U.S. Patent Nos. 5,578,662 & 6,207,767. Applicants submit a terminal disclaimer herewith to obviate the double patenting rejection pursuant to 37 C.F.R. 1.321(b). Here, the Assignee disclaimed the terminal part of the term of any patent granted on Application Serial No. 10/630,945 which would extend beyond the expiration date of the full statutory terms of U.S. Patent Nos. 5,578,662 & 6,207,767. Moreover, the Assignee has agreed that any patent granted on Application Serial No. 10/630,945 shall be enforceable only for and during such period that the legal titles to U.S. Patent Nos. 5,578,662 & 6,207,767 shall be the same as the legal title to all patents issuing on said Application Serial No. 10/630,945, this Agreement to run with any patent granted on said Application Serial No. 10/630,945 and to be binding upon Assignee, its representatives, successors, and assigns. Accordingly, Applicants submit that the obviousness type double patenting rejections of claims 1-20 have been obviated.

In view of the foregoing, this application is believed to be in condition for allowance. Such early and favorable action is earnestly solicited.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'P. DeLuca', is written over a horizontal line.

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